Daws Bacon

CHAUFFEURS WAREHOUSEMEN & HELPERS

ANTS & HOSEA .



September 17, 1964

TO LOCAL UNIONS ENGAGED IN THE CONSTRUCTION INDUSTRY.

Dear Sir and Brother:

August 5 enclosing forms to be filed with the Davis-Bacon Division etting forth in detail the fringe benefits established in your construction agreement, such as health and welfare, pension, paid holidays, vacation, etc. This information is argently needed by the Department of Luber for inclusion in future wage determinations.

With best wishes, I remain

Fraternally yours,

Thomas H. Owens, Director National Division of Building Material & Construction Drivers

THO:pf

an general table

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

OF AMERICA

MAIN AND CRINCIPAL DEFICE, DES TRUMBULL AVENUE DETROIT IN MICHIGAN

WASHINGTON OFFICE OF

* JAMES R. HOFFA *
GENERAL PRESIDENT
25 EQUISIANA AVE., N.W.
WASHINGTON L. D. C.

January 20, 1964



TO ALL LOCAL UNIONS ENGAGED IN THE CONSTRUCTION INDUSTR

Bau's - Bason act

Dear Sir and Brother.

There is enclosed for your information a copy of the new Labor Department Davis-Bacon Regulations which become effective on February 3, 1964. The principal revisions in the administration of the Davis-Bacon Act are as follows:

- 1. The establishment of a Wage Appeals Board to consist of three public members to be appointed by the Secretary of Labor. The Board will have the authority to hear and decide appeals from wage determinations, review cases in which contractors are black-listed, disputes over prevailing wage rates or proper classifications, and the recommendations of federal agencies for appropriate adjustment of liquidated damages assessed under the Contract Work Hours Standards Act. Review in all such cases is discretionary with the Board and not automatic.
- 2. An extension of the effective date of initially-issued wage determinations for bid preparation purposes from 90 to 120 days. Modifications of wage determinations will not be enforceable if issued less than 10 days before bids are opened. Heretofore the restriction has been 5 days.
- 3. The 3D percent rule is adhered to firmly for determining prevailing pay scales in areas where a majority rate cannot be found. The "prevailing wage rate" is defined as follows:
 - (a) The rate of wages paid in the area in which the work is to be performed to the majority of those employed in that classification in construction in the area similar to the proposed undertaking.
 - (b) In the event that there is not a majority paid at the same rate, then the rate paid to the greater number: Provided,
 - (c) In the event that less than 30 percent of those so employed receive the same rate, then the average rate.
- 4. The Copeland Act (anti-kickback) is modified to allow federal contractors to make certain routine payroll deductions without special permission of the Secretary of Labor. These include deductions for health, pension and vacation funds, purchase of U. S. Savings Bonds, Red Cross

The new regulations define what is meant by "construction" and the terms

"The term: 'building' or 'work' generally include construction activity as distinguished from manufacturing, furnishing of materials, or ser-

vicing and maintenance work. The terms include, without limitation,

dama, plants, highways, parkways, streets, subways, tunnels, sewers, mains, powerlines, numping stations, railways, airports, terminals,

excavating, clearing, and landscaping.

"Inless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, the manufacture or furnishing of materials, articles, supplies, or equipment . . . is not a 'building' or 'work' within the meaning of the regulations.

meaning 'all types of work done on a particular building or work at the site thereof, including, without limitation, altering, remodeling, mainting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractors, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the the building or work by persons employed at the site by the contractor or subcontractor.

I suggest that you familiarize yourself with these administrative revisions

agreements and signed payment evidence for areas where your wage rates are not established be forwarded to this office immediately so as to insure the predetermination of our proper rates.

With best wishes, I remain

Themas H. Owens, Director National Division of Building Material & Construction Drive:

Enclosure

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NEW LABOR DEPARTMENT DAVIS-BACON REGULATIONS AND SECRETARY'S ORDER ESTABLISHING WAGE APPEALS BOARD

Title 29—LABOR

Subtitle A-Office of the Secretary of Labor

PART T -- PROCEDURE FOB PREDE TERMINATION OF WAGE RATES

PART 3 .- CONTRACTORS AND SUB-CONTRACTORS ON PUBLIC BUILD ING AND PUBLIC WORK AND ON BUILDING AND WORK FINANCED IN WHOLE OR IN PART BY LOAMS OR GRANTS FROM THE UNITED STATES

PART 5-LABOR STANDARDS PRO VISIONS APPLICABLE TO CON-TRACTS COVERING FEDERALLY FINANCED AND ASSISTED CON-STRUCTION

Revisions

All relevant matters presented by interested persons regarding the proposed revisions of Parts 1, 2 and 5, Title 29, Code of Federal Regulations, published in the FEDERAL REGISTER at 27 F.R. 10761 have been carefully considered. After such consideration and pursuant to R.S. 161 5 U.S.C. 22 section 2 of the Act of June 13, 1934 48 Stat 948, 40 U.S.C. Act of 1947 61 Stat. 89, 29 U.S.C. 258). and Reorganization Plan No. 14 of 1950 13 CFR 1949-53 Comp. p. 1007; Title 29 of the Code of Federal Regulations is hereby amended by revising Parts 1, 3 and 5 thereof in the manner indicated

The principal changes accomplished by the revisions are designed:
11 To facilitate the administration of for 120 calendar days from the date of procedure for the establishment of wage rates for classifications not included in wage determinations, and by giving the administering an noise more time for implementing changes in was-

(2) To improve the prevailing wave determination process by providing for the submission of pertinent information

(3) To improve the so-called Copeland and at kinea regulations by eliminatsion to make, avroided a tens in these materies where experience has shown that the policy and provide of the Copy and Act will not be unique to

(4) To aid the coordination of the idmis stration of the labor standards provisions of the various statutes subject to reanization Plan No. 14 of 1950 and to help improve consistency in their enforcement by providing new reporting

15. To improve the debarment provistors under Restauntration Plan No. 14 of 1450 by providing for a flexible period of debarment up to three years and by consider for removal from the debured bidders list upon a demonstration of ourcent responsibility

A I simprove the determent procodure by publishing applicable tries It to provide for discretionary review by the Wage Appeals Board | created to a delegation of authority published in the Peress Recurs on this tate of wase determinations debarment is there, as sessments of liquidated dam-

mode after hearings provided for in 29 These revisions shall become effective of this document in the Profess Pro-

wes under the Centract Work Hours

Standards Act, and decisions otherwise

Part 1 of Title 28 of the Code of Fed-

PART 1-PROCEDURE FOR PREDE TERMINATION OF WAGE RATES

taining and compiling wage rate intormation.

14 Outline of agency construction programs

15 Determination of wage rates.

16 Scope of consideration

17 Field survey

18 Receipts

terroy Examiner s proposed decision domination of it a ing Framiner pro-posed decision to interested person Accretions of interested persons

AUTHORITY The provisions of this part is said under R S 161, 64 Stat. 1267; sec. 2. 48 Stat. 948, are 10, 61 Stat. 89, 5 U.S.C. 22, 1335 15, 40 U.S.C. 276; 29 U.S.C. 258 Interpret or apply sec. 1, 48 Stat. 1494, 49 Stat. 1011; sec. 212 added to c. 847, 48 Stat. 1246 by sec. 14, 53 Stat. 807; sec. 602, added to c. 94, 64 Stat. 77, at 73 Stat. 601; sec. 2, 60 Stat. 1041, sec. 15, 66 Stat. 1041, sec. 16, 66 Stat. Stat 1041 sec 15. 60 Stat 178, sec 307(11, 63 Stat 430; sec 205 64 Stat 973; sec 310, 65 Stat 307, sec 301, 64 Stat 1246, sec 3, 72 Stat 537, sec 108, 72 Stat 537, sec 6, 62 Stat 613, sec 15, 75 Stat 688 sec 721 7 Stat 167 secs 101, 122, 135, 205, 77 Stat 282, 284, and 288, 40 U.S.C. 276a; 12 U.S.C. 1701q, 1715c, 1749a, 42 U.S.C. 291h, 1418, 1150, 1592; 7) C C 1114 20 USC 636; 23 USC 111 30 USC App 2281 33 USC 4666.

§ 1.1 Purpose and scope. The reculations contained in this part of forth the procedure for the determiation of ware lates parsuant to each of iets Die Bacon Act. ational Housing Act, Hospital Survey

Housen't and Community Facilities and Services Act of 1951, Federal Aid Highhas Act of 1966 Federal Civil Defense Act of 1980 Coffeen Housing Act of 1950. Pederal Water Pollution Control Act. Area Redevelopment Art Delaware River

Basin Compact, Housing Act of 1959, and

Health Profession Fducational Asist

nnce Act of 1963, Mental Retardation Facilities Construction Act Community
Mental Health Centers Act and such other statutes as may from time to time comer upon the Secretary of Labor similar wase determining authority

§ 1.2 Definitions.

(a) The term prevailing wage rate" for each classification of laborers and gard as prevailing in an area shall

The rate of wates paid in the area in which the work is to be performed, to the majority of these employed in that classification in construction in the area similar to the proposed undertaking.

2) In the event that there is not a majority paid at the same rate, then the Such greater number con titutes

30 percent of those employed; or

(3) In the event that less than 30 percent of those so employed receive the sine rate, then the verage rate

the The term area" in determining wage rates under the Davis Bacon Act and the prevainte wace providers of the

division of the state in which the work is to be performed. In determining wake rates pursuant to section 115 of the Federal Aid Historia Nav Act of 1956 the College Housing Act of 1950, and the Pederal Water Pollution Control Act the

torm area shall mean immediate locality of the proposed project as The form asserance rate for each ass beation in an area shall mean the tite obtained by adding the hourly rates. paid to all workers in the classification and dividing by the total number of such

the Solicitor of Labor

§ 1.3 Obtaining and compiling wage rate

For the purpose of making wage rate determinations, the Solicitor shall conduct a continuing program for the obtaining and compating of wage rate

(a) The Solicitor shall encourage the soluntary aubmission of wate rate data by contractors, contractors' associations. labor organizations, public officials, and other interested parties reflecting wake rates paid to laborers and mechanics on carbon types of construction in the area. Rates must be determined, among others, for such varying types of projects as buildings, bridges dams, highways, tunnels ewers power lines, railways airports (buildings and runways), apartment houses wharves levees canals, land-clearing and excavating Accordingly, the information submitted should reflect not only that the specified wasce tate of tates are paid to a particuhar couff in an area, but also the type or

These definitious are not intended to re-strict the meaning of the terms as used in the applicable statutes

Rec. for filing 1/20104

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\$ 1.7 Field survey. that construction may be considered

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stuting sufficient information upon do to mouth a c't tot tastory bevort survey conducted in the area of the

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conference will expedite proceedings When it appears that a pre-heuring Assertation animadest 9.1 § to make a determination of ware

written proposed decision in which he The hearing examiner shall make a § 1.10 Hearing examiner's proposed demay expedite the bearing

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interested person appearing at the decision shall be mailed to each A copy of the hearing examiner a proiner's proposed decision to interested

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(a) State the procedure that he has

§ I.12 Exceptions of interested persons.

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should indicate the names and addresses pure on bislects thuch thatenumber

(b) The following types of informa-

oumber of workers employed in one the construction and types of projects, the the locations, approximate costs, dates

ments, (The Solicitor may request the respective ware rates paid such

construction by state and lo (3) Wake raks defermined for public to an extrement to such mid and ap-

ect in the Interstate System is to be per-tormed. Before making a determination department of the State in which a prol-Solic'tor shall consuit with the highway subtille. In making ware 18to deferminations pursuant to section 115 of the Federal-Aid Michael Act of 1956 the and State accinctes. See \$53 of this intobed yd bodainint noniumfolal i b

thry basis by such means, including the such information optamed on a voluntrombleque flade totibile suff (5) to the determination of prevailing w 5) Any other information pertinent with a due regard to the information thus

wase take for such a project he shall

the various statutes litted in § 1.1 shall to tan raban suottentminists of ginning of each fiscal year each agenc To the extent practicable, at the be-

\$ 1.4 Oulline of agency construction

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Sources he decine necessary

grams, as outlined at the bealiming of -oud uomanificios pasodoud mi ul aninotify the nonemor of any significant Darding the nscat year, each minney shin tion, and the locations or construction

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the estimated number of projects for

furnth the Solicitor with a general out-

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\$ 1.5 Determination of wage rates.

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tion projects completed more than

D) If there has been no similar con-

subside the payroll deduction of payroll deductions wages paid on work covered thereby; sets ride Act whence they are appli-

submission of statements regarding the throw will of sitters; stolbartinoodise copie to construction work. The part of the Contract Work House smilition will be interested to The Predetal Water Pollution Control Act. the College Housing Act of 1960

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regulations under section 2 of the Act of

Auritostirr The provisions of this part being Pran Mo. 14 of 1950, 64 Star 1967; 5 U.S.C. 23, 1332-note, 40 U.S.C. 276c.

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INC OF PUBLIC WORK FINANCED CONTRACTORS ON PUBLIC BUILD-

PART 3-- CONTRACTORS AND SUB-

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§ 3.1 Purpose and scope.

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cepted, and decided in accordance with such procedures as the Board may e Appears Board, be received an

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§ 3.2 Definitions.

tions from the wages of those employed on such work, and delineates the methical payment permissible on such work

As used in the regulations in this part at The telms "building" or work" include construction activity as distinguished from manufacturing furnishing of materials or servicing and

nishing of materials or servicing and maintenance work. The terms include without imitation, buildings, structures, and improvements of all types such as bridges dams plants hishways parkwave streets subwave turnels, sewers mains powerlines pamping stations rathage attports ternit als docks plets Attaches ways lighthouses buons lettles breakwaters levies and canali, dred ing shorter seaffolding dittime blast tra remaders charing and landscap toe unit a conducted in connection aith and at the ite of such a building or work at a described in the foregoing sentence the manufacture or writishing

of mate has arrives supplies or equipment atother er not a loderel. State aemites title to such materials articles, so piles or requiment durincourse of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished is not a building or work within the measure of the requirities

b) The terms confriction? prosecution, compation or repair mean all tipes of a raid or on a particular building or work at the lite thereof in-

modeling painting and decorating the transporting of materials and supplies to players of the construct contractor

r construction subcontractor, and manufacturing or furnishing of mare-rian articles supplies, or equipment on the site of the building or work by permissioned at the site by the contractor or subcontractor.

(c) The terms public building! or

(e) The terms public building to or "public work Include building or work for whose construction, prosecution completion or repair as defined above a egency is a contracting 1 of whether title thereof is in

a Pederal a ence
(d) The term building or work financed in whole or in part by loans or
grants from the United States" includes

or work for whose t
prime entire completion or repair
payment or part payment
to made directly or indirectly from tailor
provided by lumin or granta by a Federal
agency. The term does not include
building or work for which
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or insurance

101 Every person paid by a contractor

r subcontractor in any manner for his
labor in the construction, prosecution,
completion, or repair of a public buildtha or public work or building or work
flugneed in whole or in part by losing or
aranta from the United States in emand receiving wages "legard-

employer

term any affiliated person
includes a spouse child, parent or other
clear relative of the contractor or subeventractor a partner or offeer of the

less of any contractual relationship at-

leged to eatet between him and the real

contractor or subcontractor, a corporation closely connected with the contractor or subcontractor as parent, subsidiary, or otherwise, and an officer or agent of such corporation.

The term "Federal agency means the United States the District of lumba and all executive department independent establishments administrative acencies and instrumentalities of the United States and of the District of Columbia including corporations, all tantially all of the stock of widch is beneficially owned by the United States, by the District of Columbia, or

§ 3.3 Weekly statement with respect to payment of wages.

any of the foregoing departments co-

tablishments, agencies, and instrumen-

a) As used in this section the term employee shall not apply to persons in assincations higher than that of lab rer or mechanic and those who are the immediate supervisors of such em-

b) Fach contractor or subcontractor engineed in the construction prosecution completion or repair of any public building or public work or building or work financed in whole or in part by leans or grants from the United States, hall furth heach work a statement with respect to the wares paid each of its emplicies on any or work covered by the regulations during the preceding

ii. be executed by the contractor or ibs intractor or by an authorized offic ir employee of the contractor or subcontractor who supervises the payment of and shall be in the following

(Name of signators party) (Title)
do hereby state:
(1) That I pay or supervise the payment of

WEEKLY STATEMENT OF COMPLIANCE

the persons employed by

(Contractor or subcontractor)
on the

(Building or wors)

during the pavroll period commencing on the day of 19 and ending on the day of 19 and ending on the day of 19 all persons employed on said project bave been paid the full weekly wages earned.

ending on the day of its all persons employed on said project have been paid the full weekly wages earned that no rebates have been or will be made either directly or indirectly to or on behalf of said (Contractor or subcontractor) the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full

tions Part 3 (29 CPR Part 3) issued by the smelled (48 Stat 946 63 Stat 106 72 -tat 967 76 Stat 53) 40 USC 2760 and

(Paragraph describing deductions if any)

121. That any pass dis otherwise under this

termination incorporated into the contract, that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

period are di / regiatered in a

a State apprenticeship agency recognized by the [Bureau of Apprenticeship and Training.] United States Department of Lab. or if no such recognized agency exists in a state, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

Section 11 of Title 18 of the United States ode (Criminal Code and Criminal Procedure) snan 80019 to such state-

vides that whoever knowingly and willfully makes or uses a document or fraudulent statement of entry in any matter within the jurisdiction of any department or agency of the United States hall be fined not more than signous or imprisoned not more than five years, or both)

(c) The requirements of this section shall not sipply to any contract of \$2,000 or less.

(d) Upon a written finding by the head of a Federal agency, the Secretary of tabor may provide reasonable limitations variations tolerances, and exemptions from the requirements of this action subject to such conditions as the Secretary of Labor may specify

1.1 Submission of weekly statements

of weekly payroll records.

under 133 shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period to a representative of a Federal or State ages.

work, or, if there is no representative of a Federal or State agency at the sits of the building or work, the statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, such statement, or a copy thereof, shall be kept available, or shall be transmitted together with a report of any violation, in accordance with applicable procedures prescribed by the United States Department of Labor.

b) Each contractor or subcontractor shall preserve his weekly payroll record for a period of three years from date of impletion of the contract. The payroll records shall set out accurately and completely the name and address of each laborer and mechanic, his classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid, uch payroll records shall be made available at all times for inspection by the contracting officer or Lis authorized representative, and by authorized representatives of the Department of Labor.

§ 3.5 Payroll deductions permiable without application to or approval of the Secretary of Labor.

Deductions made under the circumstances or in the situations described in the paragraphs of this section may made without application to and approval of the Secretary of Labor.

(a) Any deduction made in compliance with the requirements of Pederal, State or local law, such as Pederal or

+ (1 HT bittof foir sin doldn bite find stiff od the "reasonable cost" of board, lods Contract Work Hours Standards Ach. self-solidage emoistvorq strandars rodal oals ' , and os sometimes absentage and contraction and or solidars are solidars as a solidar and solidars are solidars are solidars and solidars are solidars are solidars and solidars are solidars. Deductions not elsewhere provided for tot toth com for noise pap they to not office a production by action for snothebet florged baiddord e.t. are mornibab and bene encountribute and of ashivorg angoldma ali to escalar the permitted mentionans in experience in The Contract Work Hours Standards Act (40 U.S.C. 327-330). the at the still all the still state of CONSTRUCTION OF THE CONTROL OF TWO IDENTITY OF THE PROPERTY OF the figure and the property of the party of A 1991 Toronog popular spiniums. (perper or nor the rednessed deduction The Pr. Red as vo. 173 U.B.C. 1891. quest not met ignik unes or shedmla-The Secretary of Labor shall decide differedir in bin soel northiur actiun suojjesjidde uodu (t) Yuv deductions to pay 3.8 Action by the Secretary of Labor rupje organis spous of new nothernament robus mid nous to do tudime, bun spung stored bound queside equipas sur persona berration some of talente extititionous of "uosaad gans jo a rien are sigapine parima bee soutub lancitibbe redail to yial its out of his employee for the marcine an maint such additional statutes as a statute of the maint such a such -summary of of and smollenbeb basedon! in apprinted notions a and most bomaide shart and moder of American Ped Cross uosaed parqui sus jo essuisno pur onne days, core emenen predetes such as the of the application shall state the I BUT OF THE TOHOWITH BUT OF THE SECRET equality of supplication to opum of broad of the proposed definition to entite every chiedulate social will to tribin mywiii oq) aof oo toldii ooqa siq bossoon bie bie mellattettenba will elkn hu aparames normalis suv most somedown to statedal to so part are promule and in cuder to coords 2931:3B12 pur Adelbul Boxles so of seedin! with body of and State could immon sidi ni beniatnoe anoitaluger scff (a) and moutoubab be appeared add to make \$ 2.1 Purpose and scope. азивраоззе и раделен рас разводо - op waptious find a suposidde out in caotun appais the solutes in the called account CHC 3FF OF CHC 3MG trible variet of militarial of account TO ALL HELD OF THE TATE OF THE PARTY OF THE off to insmissing flut a 7d featherine. . It yd betempet restorbeb ver ch -on ad finde nottemmine adl. hr. b. (with any order of the complexee the standards act forth in the p untor nod w spuell but dunis of dively that there is compainned aith oft solais bound to esadoung off brane exemptions under the Contract Work. Hours Standards Act. ici Ilie application shall state affirm. of an indition neclouded was (a) DIS TOMISTING ASSESSED OF PERSONS OF STREET - Il judendanta in mirror waredn iden out to testatut pur acreationale E : 10) straf on 4) east absented then the contracta exand every the deductions shall sever the anotherhob for nevia ed II.w netwinted A 13 Villella to terent on and escentified ist wilding to pulptarp "unis immod to bearing of of at notteno at or any affiliated person in the torm knolfagileeval todad to insumnaqui ii s againesi - SHIRLOOPING TO TOTORIHOO OFF AG ALL Chimobi liada nortabiliqua mell. (d. sipin ao Albomp, poutnigo oscalouis si An Runger adopt with the section ment of the primary of the training and the first first training and the first first training and the first sand that be addressed to the Sec-Bit to savifuln saider bits to own to see Hours Standards Act. -live application shall be in aritbeledings at members shortenty work thereto work thereto sat rebnu seganteb To Tologithoo and thousand themporas. Buttura cinq anipaqios apij nacq w u; 10 with the requirements prescribed in popiaoid (it) to luouxoldme to come 5.0 Enforcement.
5.7 Reports to the Secretary of Labor.
5.8 Review of recommendations for an ap--mos liada 8 £ § 19bnu anottrubeb llottys; -numbers of the for the straining energy Any application for the making of ancy consent is not a condition either 5.3.7 Applications for the approval of the Secretary of Labor. th shich the note to be done and -last belaist bits emplayed pasting) & & bottog and to connects at bon satisfacts askojduis siji ka ig pajusidos kijimini the fire well the desirem of potential to ruce and interest of the employee. Louipited by his (2) it is either (1) -nowned off asserts nothubide off (b) 53 Procedure for requesting wage delerвымению той вы польторые или 1 Dum 2.3 Definitions and scope tom sie ebtebnete inin filt bill, and representatives of its employees; u 'papiaoaa siuapa'a tween the contractor or subcontractor mer name consoldus ; Die collective batkaining agreement be-AND ASSISTED CONSTRUCTION stuming ashme to whole a fit to be broaded to an animitial CONESING PEDERALLY FINANCED director of the forced SIONS APPLICABLE TO CONTRACTS such consent is not a condition either for office a series of dissibility, of tor the PART 5-LABOR STANDARDS PROVIin alueh the auth is to be done and m issmilt sample, to no potract sign to assume of the principle. Regulations, is revised as follows: efficied diach manners titus consented to by the employee in 3 Part 5 of This 29 Code of Federal to suprisult tomo pri dison. ece. The deduction is either (1) volunther to autom to b as may be applicable. In this resard, see § 5.5(a) of this subtitie. supproid to secund out to: 1114 to secthe fire deduction is not otherwise with such of the requisitous in this part a commission, dividend of officesien to mist adt it radio not substant men normal out to that of no new mostlines. tions in this part shall expensely blad the w autibin to non-upic stry a saken bon soon neeted betailthe ene ment alters to anach ed mart of to The contractes subconfigurator of o unishigos usign to thesist par all bestand the self-thousand to Aum 10 '1010 militar office 101 and 101 military of the construction, prosecution, completion, or repair of any public building or public mission to make any deduction not their mitted under \$4.5 of 1 sectorary and but he maintain a sector he but is but he maintain a sector he but is norm in a notherbody of the cultons All contracts made with respect to the of stationia to nother ob an enand not reduct to consumer our of clique January of the part of contract. Any contractor of subsolution many beautiful and to not require to meb DA busined) off of Poldue ston it. neumit as to the him complete in sldissimmed similaro's b florged 0.8 g. lo graderess and lo favorage sitt dise thus in beyoldmy nested off of boundly missible under this part. No other personation for which deductions are permand, or the additional lana of comabsertion is inside the additional records of the aidt in takes of a state title range of reserve when each proper-The payment of a second half be by cash. could be the completion of a point tide prother 231 of this title. When such a deanges to tarmeted in claudish at 1 bia bebriefta aa 8001 le 156 sbiebriafe. spinorabil sum to non mpap suy qu relad tial will be emid, notice to atmompun saxuj amos i bigi reigi in epi--alimbat adi ati onn estillibut tadio to to be permissible under 134 are pro-No. 433 Corner Brothers on this date CLR

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shall be subject to the provisions of contract within the scope of the labor

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tained by sledge of any contract of a Pederal agency to make a lior annual contribution execut where a meaning is expressio instruction

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and improvements of all types a bridges dams plants linehways parknavi, streets subways tunnels sewers, mains, power lines, pamping station

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ment whither or not a Federal or State agency acquires title to such materials. orticles, supplies, or equipment during the course of the manufacture or furor owns the materials from

which they are manufactured or furwithin the microid of the regulations in this part unless conducted in connec-

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tion with and at the size of such a build

cution completion or repair mean all types of work done on a particular building or work at the site thereof or under the United States Housing Act of and the Housing Act of 940 in the construction of development of the projoct including without limitation after the remodeling painting and decorat ing the transporting of materials and melies to or from the building or work

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on the site of the building or work. r and the United States Housing Act. f 1937 and the Housing Act of 1949 in the construction or development of the project, by persons employed by the con-

> of to be the degenning of construca that term is used in the

th) The term public building or "public work includes building or work. the construction, prosecution comple-tion, or repair of which as defined above, is carried on directly by authority of or with funds of a Tederal agency to serve the interest of the general public regardles of whether title thereof is in a Federal ag ney However the term initial construction in the Federal-Aid Highway Act of 1956 does not in-

e ude repair or mainte ance work (1) Every person paid by a contractor er subcentractor in any number for his Lebor in the construction prosecution.

I'r or public week or work inced in while or in part by loans, minimum in a second the United State is employed and receiving regardless of any contractual

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United States and of the District of Columbia, including corporations, all or ab tantially all of the stock of which is beneficially owned by the United States, by the D trict of Columbia or any of the fore roin to let artments, estab-If himents, a cincles, and fretrumentali-

1) De Federal Agency (or State Highway Department under the Federal-Aid Hichway Act of 1956) shall initially equest a wage determination under the Davis Bacon Act or any of its related prevuling ware statutes by submitting to the Solicitor of Labor, United States Department of Labor, Washington 25 DC, a completed Department of Labor Form DR II or DB-11 at whichever in is appropriate. These forms are available from the Office of the Solicitor.

5.3 Procedure for requesting wage

of States Department of Labor The agency shall check only those classientions on DB 11 and DB 11 at which The needed in the performance of the k proceed not a note such as centire schemie or all applicable classifica-

Additional sitications needed which are not on the form may be typed in the blank in a parate in t and attached

classifications on the form or classifications which are not generally recognized. in the area or in the construction in-

In completine Form DB-11 or DB 11 as the arrancy shall furnish. A sufficiently detailed description of the work to indicate whether heavy hirt.way, or building construction, or any other type of construction is involved. Additional description or separate attachment if necessary for identification of type of project shall be furnished.

Location of the proposed project include distance in miles and direction from the nearest point of reference) in the accress evaluation as to whether the project is a building heavy. lifet was or other type of construction project

O Such request for a wage determination shall be accompanied by any pertinent ware payment information, which may be available. This into mation need not accompany a request in areas where the wage patterns are clearly established.

When the requesting agency is a State Hartway Dipartment under the Federal-Ald Illichway Act of 1956, such agency shall also include its recommendations as to the wages which are prevailing for each classification of laborers and me chanics on aimilar construction in the immediate likality

Macheter the wage patterns in a

particular area for a particular type of onstruction are well settled and whenever the agency anticipates a large veluna or procurement in that area for such a type of construction, it may request nance of a general wake deterimmation for use on individual contracts for that type of construction in that area In his discretion, the Secretary of labor niav issue such a general wall determination when after consideration of the facts and circumstances involved, he finds that the applicable statutory stand-

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Il. A bemiedred of alsow off file mitel ... PRODUCT OF SHOPPING IN SUL . A POSSE IN except those subject only to the Coli-Talons of any of the acts listed in \$51 a disease off fails bus reduct to vistation tract subject to the labor standards pr pert of the contract and wake asky a min, here it is the equalities of the require to be inserred in full in any co mierent bentalt in estan sune off fadt, et tig. ILE ME OF BUILDING TO THE THE THE BAY (w) The Agency Head shall cause and thempinger smilwell (it \$ 5.5 Contract provisions and related and 'mechanics' include estchmen and there is a married on the ablitch to national and the following the following the state of the s Work Hours Standards Act Act Week In sult cot fract and ject to the mins will be soot tend assau minim of all perrous to the fastie in name of this paragraph to be included in egraped in a contract subject to the mu-A tine sent the rote with weekly a Das (E) S: (f) alganas agdus nl urs werkert deductions made Ald Highway Act of 1956), the Secretar at the Akeney Head shall cause or quest of a Poderal author tor a Sta CONTRICTOR she bus sman sor malitos ille stroms double it side to syttatific in we sad nogif (5) or other prantitation undertaking the to the nonprofit corporation are clastical. tion to which it relates effective period of the wage determin bever struoma we with the Ministry Market of 1937 of case will continue in effect beyond it. on a nottadibort A vortiga lambid. anisase H. larabert and bita medaritation entand man base stant certification a roll to three containing bina the dwale-volument - volume - design - seets of Ad bastobus vilgillul struction but spall not apply after the Paviol oland bean district the wine of the work it made prior to the beginning of cono etherwise empioyed at any uma on the project, voluntatily donate person and adolptical data than tered into pursuant to site National House in the Act changes or modifications in the solitationic graticial stoffs entay to are the matter of the matter so will ad their on moth a chine sain, ? I strength of persenable is of this The Control of the test of the Till is of titles commission with ect of it hard of the a mea required on the or deachings maned under 13 USC of the Federal-Ald Lighway Art of 1956 by In the restruction of a dwelling a 6 see) as at both a step as ten to the ten and an analysis to ten a ten and an analysis to ten a ten and an analysis to ten and an analysis to ten and an analysis to ten an analysis same on the forming of the contracts of linds thomas and normalisation a inged by the course. 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Howevel the action takes secterally of Labor -aluqah bealsgo ilada totoattidos attiting bid of the bid openita. fur nettanimis'sb sally yan a tasuper The series of the contract of the collection of to the wage determination, and a report mylet is to be employed number me cor titiods vonesa adt brana bus and abytem as ment to the bas bus nottantimersb sack and all betall for at ness, it is void. If it appears that a war Address of Descripes on Mar 101 settlebri estupest thada teoffio guiltoatimoo fiolifiw mointanteen to arestodal to ana not used in the period of its effective artimeter out pausinied Arrent tions it such a ware determination days in m the date of each determine and whate event as a verse said of an university of the part and bottle neg repairs and interesting the factor of the bottle of the part o

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I the National Housing Act the According the shall cause or require incluit the romains clause. Every laboramerhanic employed by the contractor any subcontractor enused in the contractor of the project shall receive attenual area of not less than and one half times has basic or re-

and one half times his basic or reof you for all hours worked in any norkness in cases of eight hours any norkness or forty hours in the as the case may be

rail 1) It shall be the resp. of the Pederal agency to accertain whether classes required by 1.5.5 have been in the contracts which do not directly enter into such contracts shall prompting the nervisory

133 or such monifications thereof which have been approved by the 15 partment 1 labor. No parment advance or an or guarantee of funds shall be apply the recent assence after the of construction unless there is on me with the agency a certification by the contractor that he and his subcon-

ensitracts contain the provincing of

tractors have complied or that there is a substantial dopute with respect to the required provisions.

2) The Pederal merics shall make examination of the submitted payrolls and statements as may be necessary in assure compliance with the labor landards clauses required by the resultions centained in this pair and the lated in 151. In section with such examination par

correctness of classifications and disproportionate employment of laborers between or apprentices. Such payrolls

Secretary of Tabor at any time during

of payrolls and statements required by of this pain raph, the

to be made at may be necessary to assure compliance with the labor stardards

tained in this part and the applicable statutes listed in \$51. Projects where the contract is of short duration (6 months or assesshall be investigated be-

not distance to written or oral made by dential and shall not be disclosed to his

interviews with employees and examinations of payroll data to determine the correctness of classifications and disproportionate employment of laborers,

by I. Whenever any contractor or f labor or the Azenev Head with

or than the Davis Bacon Act, such or supcontractor or any firm

has a nestantian inverset shall be for a perior not to exceed 3 the date of publication by the Comptroller General of the name or name of said on tractor or subcontractor on the inclinible list as provided below: to receive any contracts subject to

bidders act of any contractor or subattactor whom he has four I to have demonstrated a current responsibility to comey with the labor standards provi-

lerally-massed construction work breef to any of the applicable statutes is ted in to l. In cases arising under covered by the Davis-Hacon Act, the ineligibility provision prescribed in that act shall govern

2) The Asency Head shall form the Secretary of Labor for transmittal in the Comptroller General the names of

found to have disregarded their obligations to employees. The Comptroller General will distribute a list to all Departments of the Government giving the names of such inclinible persons or firms.

recells Whenever as a result of an investigation conducted by the Agency of the Department of Labor, the officer in charge of the Wage Determination Division. Office of the Solicitor, finds reasonable cause to believe that a contractor or subcontractor has committed willfur or assiral attentions of the labor standards provisions of any of the statutes listed in 10.1 other than the Davis Ruson Act. Clays. Bacon Act. which

violations of the Davis Bacon Act which constitute a discount of its obligations to employees or subconfractors under

on 1 a) thereof the al 1 said Wage mation. Officer shall promptly notify by revisioned or or titled mail the atractor or subcontractor and its remains be officers, if any and any firms in which the contractor or subcontractor.

are known to have a substantial intertractor or subcontractor and any other parties notified an opportunity to present such reasons or considerations as they have to offer relating to why debarment action should not be taken under \$56 b) of this part or section 3 a) of the Davis-Bicon Act. The aforesaid Wage Determination Officer shall furnt h to those notified a summary of the investigative findings, and shall make available to them any information disclosed by the my struction which is not priviles of or found confidential for good cause. If this opportunity is requested, in informat proceeding shall be held before a luaring examiner a regional attorney or any other Departmental feer of appropriate ability. At the conclusion of the informal proceeding, the presiding officer shall issue his de-cision which shall be served by registered or certified mail upon the interested parties

Within 100 days after wryter of the decision, any party may file objections to the decision with the Solicitor of Labor. United States Department of Labor. Washington, D.C. Such of tions shall be specific and shall be accompanied by reasons or bases therefor in his discretion, the Solicitor may permit oral argument. If no objections are filed the decision of the presiding officer hall be final, except in cases under stion 3 of the Dayis Bacon. Act as to any action to be taken by the Comptroller.

(3) The decision of the Solicitor show a ruling upon each objection presented and shall include a statement of (1) the findings and conclusions as well as the reasons or bases therefor,

discretion presented on the record, and the an a propriate order or recommen-

all be firal, except in cases accepted who upon relation, by the Wage Appeals Board and in cases under section 3 of the Davis-Bacon Act as to any action to be taken by the Comptroller General under that section

1 Any person or firm debarred under \$5.665 may in writing request.

moved from the debarment list. The

Makes are found to be due, the amounts Some bute abulbon and solveton gen trie of a robited bits and state of as spirited, doug foutation in a m. the conduct of Government business or bridge interest of prevent undurated by the state of the serious incomment of the serious fractions and the serious of the the case of the ca CTK D-8 a frouth quirant investigation of the form of the following the followin contract is terminated by reason of viotreed and bus Lin abindratic sensition another of absolute the state of the state o the man that the state of the s out a fort, dat of stormer in access the Secretary in the secretary of the se and the second to the second the ed of bus 198 shahits in the field of the fi was reasonab boubons with the same of the same of the same of the transfer of the same of the the bispersia will set become a per soul Characteristic and the first a or man must had a broth source. The state of the s De la constant de la ed of bus DA shubusing to to on 11 10 h 101 miles Tohn horselver of the must a tast about out of the treatment and all the treatment and actions taken To The Post of the Company of the Co And section in the median results and the section of the section o materiors and to end to been moistons nother sub-thail told bank active obto mental and the particular solution of the control of the contro Sam Benediction to al facilities Constitution of the State of the Stat tal a service of the nied has broken and have a state of the stat of the factor of the following the factor of The All I wing to wind the state of notes parameters populariones (9) The state of the s BY THE WORLD SHE WAS A STREET Federal A term to ten i vitaniste de la contrare de waded to mannered the till a And the property of the state o of all sold takes to the sold sold to the frame to the acts of the periods taken tokan aman Can at I protest than sacrificht and between the and are an includent and a second an the second of th ballstone accompanied to more an establish 0003 missing the first of the man to the to the first of the man to the first of the man to the first of the may appear of the second of th prints faminists, manufarms, and prints for the prints of to the mark the man of the most of the man o I STORPHER TO THE WAY WORK IN THE Silver to statts and an another site by an interest of the state of th тип амаган размен калишир разм Problems on part comment unical analysis but it following the buse and most of most of the basis of the business of the 5.5.10 Restitution, retininal action. the wages to which they are entitled and to cover any liquidated damages which and a state of the 8.5.8 Review of recommendations for date of the commendations for high figures standards A.A. Monte of the Contract the state, here there are pure Some 1 to contrary and of strongall 7.8 & of of Multi-confactor activation of the confactor of the atter to the second of the sec the to words, to make all oil processing a dispositional transcription of their control spant to noisnastens 6.2 ; FCF ON There a street has take and to street of the state of th J. Managarana at distribution distribution die od linde (nyomet tol ombewig i remendab ett of salimin viladien) TABLE SHIPE

the out. The hearing examines sion shall be sent to the interested to and shall be final unless a petitifor review of the decision by the Sol. of Labor is filed by any such partiin quadrupts ate with the Chief Hear Daminer United States Department of Labor Wastington 25 DC within 20 days after receipt thereof. The pelly for review must set out sepa arely and particularly each objection asserted The petition for review and the record which shall include the examiner's discidon then shall be certified by the hear tra examiner to the Solicitor of Tabet The petitioner may file a brief origin and four copies: in support of his peti-tion within the 20-day period and any triterested party upon whom the heuriexaminer a decision has been served mas within 10 days after the expendion of the time for flow the petition for review tile a first in support of it is rister. The South of Laborators of shall be subject to such further texts a by the wave Appeals Board, as it may

All presenter arising in any avency fee one of theation and interpreta-

5.12 Rollings and interpretations

I the rule contained in this part and in Parts I and 3 of this subtitle and of the licker's or hards provisions of any ferred to the Secretary for appropriate cultival turn operation interpretation stative and these is the Divisionacin Act may 10 of the Polis to-Portal Act of 1947

3.9 Requests for sich rulhas and lite pressions should be adto the Secretary of Labor United States Dena intent of Labor, Washington 25 DC

£ 5.13 Variations, tolerances and exemptions from Parts 1 and 3 of this subtitle and this part.

The Severary may make variations

§ 5.14 Lonitations, variations, Lider ances, and exemptions under the Contract Work Hours Standards Act.

anenes the asserms of Labor mange vide under action 105 of the Central's Work Hours Standards Act reasonable the Contract World in tandard Act limitations and allow variations toleran es and exemptions to and from any or all provision of that Act whenever he finds such action to be necessary and proper in the public interest to prevent Injustice or undue hardship or to avoid serious impairment of the conduct of of business. Any request for auch action by the Secretary shall be submitted in writing, and shall set forth the reasons for which the request to

the Free plions Pursuant to section 105 of the Contract Work Hours Standards Act. the following classes of contracts are found exempt from an provisions of that Act in order to prevent fidustice, andue hardship, or serious imas ment of Government busines

Agreements entered into by or on behalf of the Commodity Credit Coron providing for the storing in or handling by commercial warehouses of wheat corn cats barrey, 15c, grain sorstores tobacco, peanuts dry beans seeds

cotton, and wool (2) Sales of aut, has power by the Tennessee Valley Authority to States, courtties, municipalities, cooperative or anzation of citizens or farmers, corpora tions and other than iduals pursuant to section 10 of the Tennessee Valley Au-

3 Contracts of \$2,000,00 or Purchases and contracts other construction contracts in the assicuate amount of \$2,500,00 or less. In arriving at the acceptate amount involved, there must be included all property and services which would properly be grouped testether in a single transaction and which a said be included in a single vertisement for bids if the procurement in effected by formal advertis-

45 Contract work performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the fol-

the District of Columbia, Puerto Rice, the Virgin Islands, Outer Continental Shelf ands defined to the Outer Conti-

Island and the Car al Zone
-c. Tolerances 1. The basic rate

Work Hours Standards Act may be computed as an hour of equivalent to the rate on which time-and-one-half overtime complication may be computed and paid under section 7 of the Fair Labor Standards Act of 1938, as amended | 29 USC 2000 as interpreted in Part 778 of this title. This tolerance is found to be necessary and proper in the public inter-

of the Pair Labor Standard. Act and

(a) General. Upon his own initiative - causes are exchalable from the negular

tale adjustments in the a seminal of liquidated damages total to \$1,0000 or less under

Secretary of Labor.

Skinet at Washington, D.C., this 30th day of December 1963.

DEPARTMENT OF LABOR

Office of the Secretary In this section No. 12.63

WAGE APPEALS BOARD Establishment and Functions

1 Authority This order is issued pursuant to RS 161 /5 USC 221 Reorganization Plan No. 6 of 1950 -5 U.S.C. 611 note: and Reorganization Plan No. 14 of 1950 (5 USC 133z 15 note)

2 Purpose The purpose of this Order is to establish a Wage Appeals Board and to authorize the Board to carry out certain functions of the Secretary of Labor under Reorganization Plan No. 14 of 1950 -5 U S C 133r-15 note; any statites subject to that Plan, which include Davis-Bacon Act (40 USC 276g-7) and as extended to the Federal-Aid Highway Act of 1956 (23 USC 113) Copeland Act (40 USC 276c), Contract Work Hours Standards Act (40 USC 32" 330 National Housing Act 112 USC 1713 1715a 1715c 1715k 1715l(d) (3) and (4) 1715v 1715w 1715x 1743 1747, 1748b 1748h 2, 1750g Hospital Survey and Construction Act (42 USC 291h; Federal Airport Act (49 USC 1114); United States Housing Act of 1937 (42 USC 1416); Housing Act of 1949 (42 USC 1459); School Survey and Construction Act of 1950 (20 USC 636) Defense Housing and Community Facili-ties and Services Act of 1959 42 USC 15921: Federal Civil Defense Act of 1950 50 USC App 2281 Area Redevelopment Act 42 USC 2518 Delaware River Basin Compact | sec 15 1, 75 Stat 714 and also under the Federal Water Poliution Control Act | 33 USC 4663 the College Housing Act of 1950 12 USC 1749a) and the Housing Act of 1959 (12 USC 1701q) and to carry out those functions under the rules promulgated pursuant to the Plan and other authority published in 29 CFR Parts 1 and 5. The establishment of the Board and the delegations of authority thereto also necessitate some changes in the delegations of authority to the Soheltor of Laber under the statutes involved. These changes are made in Paramaph 12 of this Order

3. Resemble of pretions Order. Gen-

eral Order No. 41 of the Secretary of Labor (181 R 2609) is hereby reminded.

4. First Commit of Wage Appeals tereby established a

rectly reponsible to the Secretary of Labor for the proper performance of the delegated authority conferred in Paragraph 8 of this Order. The Board shall operate under the rules of the Secretary of Labor interpreting or applying the statutes listed in Paragraph 2 of this 5 Comparison The Board shall con-

whom shall be to a nated Chairman. The members of the Board shall be appointed by the Secretary of Labor, and shall be selected upon the basis of their qualifications and competence in matters. within the authority of the Board

Voting. The Chairman of the Board may in his discretion, designate himself or any other member of the Board to decide any appeal provided the

Secretary of Labor. W. WILLARD WERTE, Caul redmered to tab

staned at Washington, D.C. this 30th

has duties and responsibilities under titls I wild 5 The Solicitor may

ording the property of the pro

Hospital Burrey and Construction Act

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180 U.S.C. 281hr. Frderal Airpurt
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attrasarder bestroillite aff ga fon flaite dal to ratellow adt o et to et ove man follastinaquosist of man 11 Authority of Solicitor Except. (1) as provided in Paragraph 8 of this Order as provided in the promulgation of general

the partition of the second property of the s

tons of the Board.

retary such rules as it deems necessary or appropriate for the conduct of its proceedings. The Secretary shall Issue rules implementain: the resonanced The Board may recommend to the Sec-8 Bries of beauties and principles

Standards Act. On any question of law, the Board shall act on the advice of on delica sevamab behabingil to from the delication of the delicat n ni noistagaid así ní bha a to anoismeanneost ath anistair

externg under 83 CFR Part 51 dispute coming before the Board, in its discretion concentrate the payment of provadir

minimum ware statutes and under as Part 1: appeals taken, in the di-cretion of the Board, in debarment Datafri elt brin Joh fton Hestwal hoppeds, concerning questions of the Bond had and to nother discount in the discretion of the Bond under the bond was defended and the bond in the bon

shill act at the authorized representative broot aff. broot aff to throuluk 8.

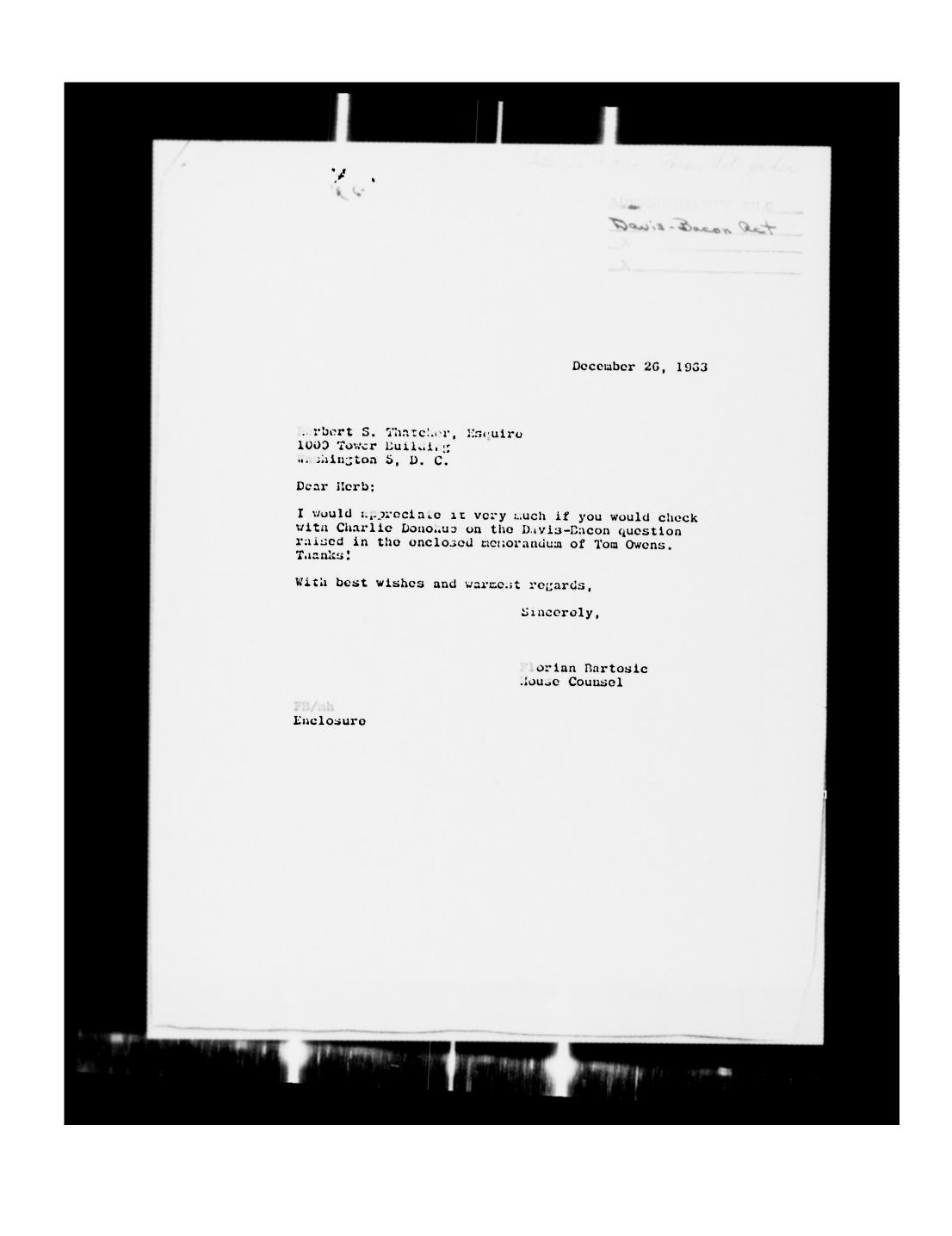
Washington, 12 C. nothers for good cause with a not said of order that proceedings in the first order to be held in mother than the first of the first order to be first order Board shall hold lis proceedings in

Board, a majority vote shall be neces-for decision. Any decision in any other matter shall also be by a majority

upon a decision, the case will be decided och ven nammer. The chairman may decided direct that any appeal may be decided by a panel of any two members of the interested persons or nearlies have con-

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December 23, 1963

MEMORANDUM

Mr. Florian Bartosic

From: Tom (Wens

turned is a copy of an opinion from Charles Donahue, State to of Labor, given to the Deputy General Counsel, tief of Englishers, Department of the Army, relative to an elaste ready-mix plant at Cape Canaveral, Florida.

To our knowledge, this is the first opinion of this type in which the Solicitor has ruled that an on-site ready-mix ant is not covered by the providence of the Davis-Recon Act

some \$350,000, makes it a permanent plant and secondly, that

Caraveral area. It is not uncommon on large construction rowers, particularly those being done by the Government arencies in connection with the missile and other defense rowant, to have an on-site ready-mix plant serving more were considered covered by the provisions of Davis-Bacon.

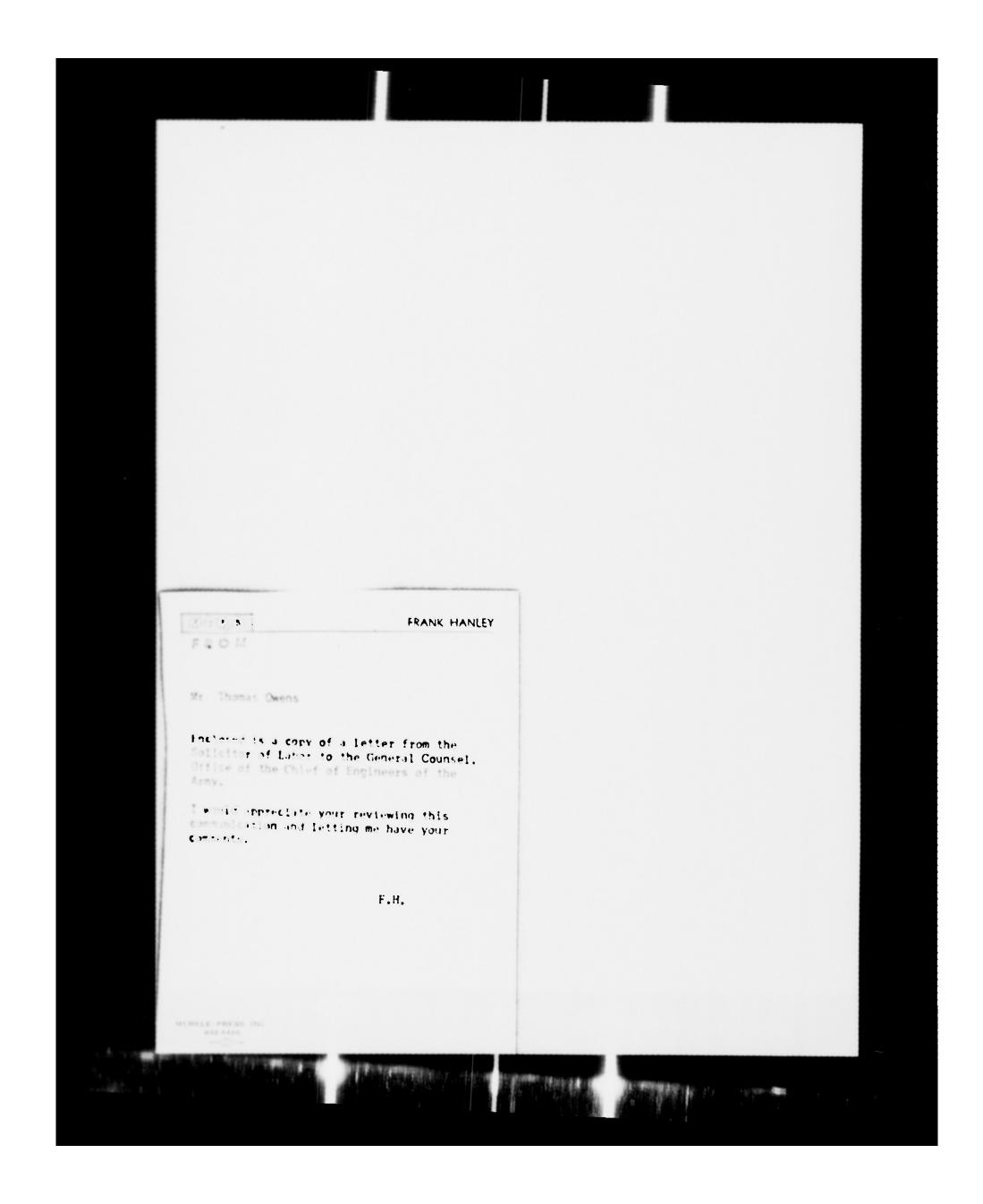
It is important that we take some action in appealing this opinion in order that we may protect our members engaged in this type of work. The Operating Engineers' International manning to take similar action on this opinion and matter is being handled by Gerard Treanor. It might be well that we undertake this jointly.

I don't appreciate your comments on this after you have and an opportunity to review same.

THC:pf

Cumensty Now als Barter. to Owen,

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U.S. DEPARTMENT OF LABOR

OFFICE OF THE SOLICITOR

WASHINGTONES

Mr. Harold F. Blasky
Deputy General Counsel
of the Chief of Engineers
the Army
Washington 25, D. C.

NOVEMBER 14, 1963

Dear Mr. Blasky:

f the Davis-Bason Act to employees of Acme Concrete of Ministral and making deliveries from a concrete batching blant located on the Concrete Statement of the Concrete Statem

The plant and related improvements have an estimated value of \$150,000. The plant is operated under the terms of a lease with the Federal Government. The lease is for a period of five years, and provides that the lease shall sell concrete products only to the Government, its agents, contractors, and their subcontractors at Patrick Air Force Base, Cape Canaveral Missile Test Annex, and W.S.A. Manned Lunar Landing Project, in Brevard County, Ploride. The lease does not contain Davis-Bacon provisions; it does not propose to restricted to any particular construction contract: and it does not appear to be restricted to any particular integrated progress or

A large number of contracts calling for varied performance are served from the plant. The contracts relate to such things as work on Mercury Control, hangers, warehouses, a helicopter port, a telephone building, satellite support systems, various complexes, a security police building, and other buildings. Prom the information which you submitted to us and subsequently furnished by Acme, it does not appear that Acme's performance is under the specifications of any particular Government contracts of any series of related contracts.

The questions presented are whether the operations of Acre at the plant are

note to hat aca "emotioned without upon the are of the (contract) where within the acid.

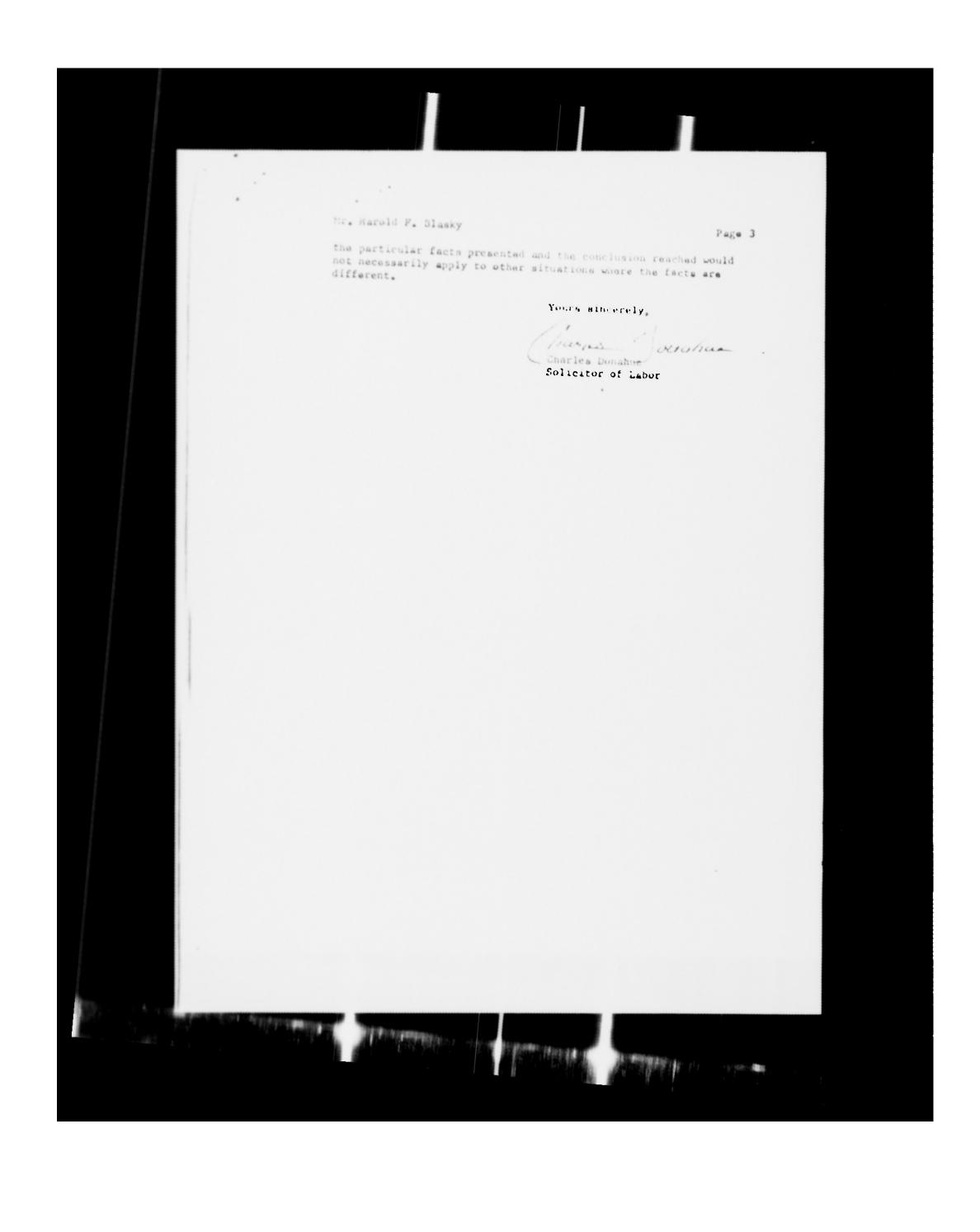
The act. It is our onclusion that a must be as a mustant.

onve generally held that a "subcontractor" under the act is one of undertakes the performance of a specific part of a Government struction contract, except where the undertaking is that of an occhanics "employed like thy upon the site of the (contract)". The except of the activities in indirectly of resource and so hances who are engaged directly rather an indirectly of resource in contract performance or in activities rectly related on a

applying this interpretation administratively, both functional applying this interpretation administratively, both functional applying the contract of the callity is temporary and established virtually excluded the needs of the contract, or a series of contract that to serve the public generally; the contract of the

The operations of the Acme plant do not meet the usual tests of coverage. The considerable investment at the plant and the terms of the lease indicate that the operations are not temporary. It cannot be said that the plant was established to serve exclusively, or virtually so, any particular contract or series of related comtracts. Such is not required by the terms of the lease, and nuberous contracts of different agencies calling for highly varied construction are served from the plant. Also, it is apparent that the plant will serve contracts for construction not contemplated at the time of the lease. The lease provides for exclusive sales to the Government and its contractors, but the relationship between such sales and the actual performance of any particular contract or series of contracts seems too remote to warrant coverage under the applicable statutory terms. The plant is physically located on the military reservation, and is therefore within the general area of construction. But this fact is not enough to establish the application of the act. Section 5.7(f) of this Department's accilations, Part 5, suggests that manufacturing or supply operations, even when carried out at the actual site of the public builting or public work saveled, are covered only ween they are conducted in connection with the construction activity. This connection must be proximate and not indirect or recote.

The operation of supply facilities on additory reservations for servicing Tederal construction of the present close questions of covers, a united the Davis-Back. Act, the opinion above is based on



Bours - Bacon let

DAVIS-BACON ACT

The Davis-Bacon Act, enacted in 1931 and revised considerably in 1935. is related to the payment of prevailing wages on Federal construction work. In recent years there has been a considerable amount of dissatisfaction with the law on the part of labor, particularly as it pertains to the determination of prevailing rates. Up to now the Secretary of Labor has confined himself to determining only the prevailing basic hourly rate. Payments into pension and health and welfare funds, vacation funds, apprentice training funds, etc., are completely ignored in determining the prevailing rates. This constitutes an open invitation to outside contractors with lower labor costs to move into high wage and benefit areas.

Some efforts have been made to improve the law, not only through amendments but also through improved administration and interpretation, thus far without success. In February, 1959, bills were introduced in the Senate by Senators Humphrey and McNamara and in the House by Roosevelt and Fogarty to amend the law in four respects. (1) To be baden the coverage to include:

(a) All non-farm construction in excess of \$25,000 in valuation, at least 1.3 of which is financed by Federal funds, loans, payments, grants or contributions; and (b) all federally insured or guaranteed loans for the purpose of financing any non-farm construction program other than housing developments of less than 10 units; (2) To modernize the term "prevailing wage" to include prevailing contractor payments to health and welfare funds, retirement funds, vacation funds and apprenticeship funds: (3) To put hours

of work and overtime on a prevailing basis; (4) To centralize enforcement and create a construction appeals board.

These are the types of changes that should be made in the law.

As of now the AFL-CIO apparently has no plans to push for enactment of any amendments. The feeling is, apparently, that in view of the Chamber of Commerce and NAM propaganda efforts toward crippling amendments to the law, the present climate toward labor, lack of friends on the appropriate Congressional committee, etc., it would not be wise to push for liberalization. Instead they seem to think that, if anything, any fight that develops will be to retain what we already have.